

Application Serial No. 09/901,014
Amendment after final dated October 22, 2004
Reply to final Office action of June 4, 2004

REMARKS

Claims 70 and 72 through 79 are pending in this application. Claims 70, 72, 73, 74, and 75 are amended herein. Support for the amendments to the claims may be found in the claims as filed originally as well as in Fig. 2 and at page 15, lines 23 through 31, continuing at page 16 of the specification. This amendment is believed to place the application in condition for allowance, and entry is requested respectfully. Further reconsideration of this application in view of the foregoing amendment and the following remarks is also respectfully requested.

Response to Amendment:

The Applicant appreciates the entry of the amendment filed April 8, 2004. For the record, we notice that the PTO-326 accompanying the final Office action is responsive to a communication filed on May 21, 2004. The Applicants are aware of no communication filed May 21, 2004, and presume this is a typographical error.

Rejections Withdrawn:

The Applicant appreciates the consideration of the remarks filed April 8, 2004, and withdrawal of the objections to the claims and the rejections under 35 U.S.C. § 112, second paragraph.

Claim Rejections - 35 U.S.C. § 102:

Claims 70, 72, and 74 through 79 were rejected under 35 U.S.C. § 102(e) as anticipated by Tachibana *et al.*, US 6,176,842. The rejection is traversed to the extent it would apply to the claims as amended.

Claim 70 recites:

"a first sensor measuring a parameter of said ultrasound."

Tachibana neither teaches, discloses, nor suggests a first sensor measuring a parameter of ultrasound, as recited in claim 70. Tachibana, rather, shows only a single signal path from temperature sensors 22 through temperature measurement device 98 and A/D converter to processing unit 100 in Fig. 16, rather than a first sensor measuring a parameter of ultrasound, as recited in claim 70.

Ultrasound transducer 20 of Tachibana does not detect ultrasound, contrary to the assertion at paragraph 5 of the final Office action. Ultrasound transducer 20, rather, only *delivers* ultrasound energy, as described at column 16, lines 57-59. Tachibana, in fact, has no

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need to detect ultrasound, since Tachibana is interested merely in causing tissue death, as described in the Abstract as well as at column 1, lines 31 and 32 and column 2, lines 13 and 14.

Since Tachibana is interested in causing tissue death, his interest in measuring any parameter of the ultrasound will be satisfied with the knowledge that the ultrasound is being delivered at a frequency and an intensity likely to cause death. Once the frequency and intensity likely to cause death has been discovered, the ultrasound would simply be applied, without any further need for a first sensor measuring a parameter of the ultrasound. Consequently, Tachibana has no use for a first sensor measuring a parameter of ultrasound at all, as recited in claim 70. Claim 70 is submitted to be allowable. Withdrawal of the rejection of claim 70 is earnestly solicited.

Claims 72 and 74 through 79 depend from claim 70 and add further distinguishing elements. Claims 72 and 74 through 79 are also submitted to be allowable. Withdrawal of the rejection of claims 72 and 74 through 79 is earnestly solicited.

Claim Rejections - 35 U.S.C. § 103:

Claim 73 was rejected under 35 U.S.C. § 103 as being unpatentable over Tachibana in view of Bartosiak et al. US 5,011,296. The rejection is traversed. Reconsideration is earnestly solicited.

Claim 73 depends from claim 70 and adds further distinguishing elements. Tachibana neither teaches, discloses, nor suggests a central processing unit that adjusts a first sensor measuring a parameter of ultrasound, as discussed above with respect to claim 70. Bartosiak mentions no ultrasound at all, and thus cannot make up for the deficiencies of Tachibana with respect to claim 70. Claim 73 is submitted to be allowable. Withdrawal of the rejection of claim 73 is earnestly solicited.

Conclusion:

Accordingly, in view of the reasons given above, it is submitted that all claims 70 and 72 through 79 are allowable over the cited references. Allowance of all claims 70 and 72 through 79 and of this entire application are therefore respectfully requested.

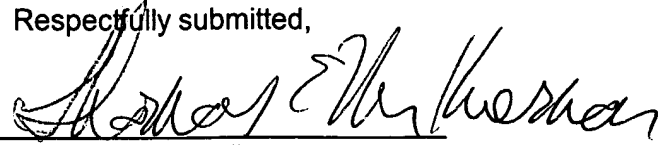
In view of the above amendments and remarks, it is believed that the claims satisfy the requirements of the patent statutes and are patentable over the prior art. Reconsideration of

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the instant application and early notice of allowance are requested. The Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

By

A handwritten signature in dark ink, appearing to read 'Thomas E. McKiernan', is written over a horizontal line.

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